THE HON'BLE SRI JUSTICE D.S.R.VARMA
AND
THE HON'BLE SRI JUSTICE P.SWAROOP REDDY

TAKEN UP WRIT PETITION No.4086 OF 2006

Between:

D. Sudheer and 15 others

...

Petitioners

AND

1.The Commissioner, Excise and Prohibition, Nampally, Hyderabad and six others.

....Respondents

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THE HON'BLE SRI JUSTICE D.S.R.VARMA

AND

THE HON'BLE SRI JUSTICE P.SWAROOP REDDY

TAKEN UP WRIT PETITION No.14086 OF 2006

ORAL ORDER: **(per the Hon'ble Sri Justice D.S.R. VARMA)**

Heard the learned Government Pleader for School Education, learned Government Pleader for Prohibition and Excise and the learned Standing Counsel for Municipal Corporation, representing the learned Advocate General, appearing for the respondents.

2. This writ petition is taken up on the basis of a "Petition" dated 27.06.2006, sent by one D.Sudheer and 15 others, to the Hon'ble the Chief Justice, High Court of Andhra Pradesh, Hyderabad, alleging that a wine shop is being run in the name and style 'S.V. Wines' at Kummarwadi, Amberpet, which is close to a Educational Institution, a Hospital, a Darga and a Temple and since the drunkards at the said wine shop are causing inconvenience and hardships to the men and women passing through the lane, seek a direction to the concerned authorities to take appropriate action for removal of the said wine shop.

3. Mr.Satyaprasad, the learned Special Government Pleader, appearing for the official respondents, submits that, in fact, there are internal disputes between the first petitioner and the licencee; that the licence to the said wine shop has been given not for the first time this year and it has been given since 1997 and because of the said internal disputes, some civil litigations are also pending.

4. Added to the above, he further submits that the so called School, Darga and Temple are not recognized, hence, they come within the ambit of Explanation to Rule 27 (1) of the Andhra Pradesh Excise (Lease of Right of Selling by Shop and Conditions of Licence) Rules, 2005, framed under G.O.Ms.No.998 Revenue (Ex.II), dated 24.5.2005 (for short "the Rules"), wherein it was clearly mentioned, *firstly,* the place of Public Worship means a registered Temple by the Endowments Department, *secondly*, Educational Institution means again a recognized Institution, *thirdly*, Highway means a

National Highway or State Highway and *fourthly*, the Hospital means a hospital, which is managed by or owned by local authority, State or Central Government or any private hospital having provision for at least 30 beds.

5. From the above, it is obvious that the School, Darga, Hospital and Temple, which are allegedly existing within the area of licenced shop, are not registered, and hence squarely fall within the scope of Explanation to Rule 27 (1) of the Rules, which reads thus:

> " (a) "Place of public worship" mean a temple registered with the Endowment Department, Mosque registered with Wakf Board and Church and includes such other religious institutions, as the State Government may by order specify in this behalf:
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> (b) "Educational Institutions" means any Primary School, Middle School and High School recognized by the State Government or Central Government, Junior College or any College affiliated to any University established by law.
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> © "High Way" means National High Way or State Highway and shall not include the part of National Highway or State Highway which passes within the limits of Municipal Corporation, Municipal Council or the Gouthan in any village or Panchayat are.
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> (d) " Hospital" means any hospital which is managed or owned by a local authority, State Government or Central Government or any private hospital having a provision of at least thirty (30) beds."

6. Of course, there are 15 other individuals along with the first petitioner appear to have made this complaint. Some of the signatures of the petitioners are not legible as could be seen from the complaint. Therefore, in all probability, those signatures were obtained by the first petitioner in order to see that the wine shop in question is rooted out from that place, particularly having regard to the internal differences.

7. In view of the above, we do not see any bonafides in the complaint made by the petitioners and since the wine shop in question falls within the ambit of Explanation to Rule 27 (1) of the

Rules, we do not see any reason to interfere in this matter and consequently the Writ Petition is liable to be closed.

8. Accordingly, the Writ Petition is closed, at the stage of admission. However, there shall be no order as to costs.

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D.S.R.VARMA, J

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P. SWAROOP REDDY, J

Dated: 20.11.2006

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